

REMARKS

Status of the Claims

Claims 65-101 are pending. Claims 67, and 81-85 are withdrawn.

Novelty and Obviousness

The Examiner rejects claims 65, 66, 71, 73, 75-76, 79, 79, and 87 are rejected as anticipated or obvious over Jensen et al. under 35 U.S.C. §§ 102(a) and 103.

Applicants submit that Jensen is disclosing Applicants' own work. Applicants herein provide a Declaration under 37 C.F.R. 1.131 from Inventor Christian Sig Jensen describing the discovery and publication process. Inventor Jensen also provides multiple exhibits which establish that the invention of the present application was reduced to practice prior to the publication date of the Jensen reference.

Page 3 of the Jensen Declaration specifically asserts that the experiments reported in the pre-publication draft Exhibit 12 were completed prior to March 12, 2001, thus evidencing that the present invention was reduced to practice prior to publication of the Jensen article.

The Jensen article, therefore, is not prior art to the present application under 35 USC 102(a), and the prior art rejections should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson Reg. No. 30,330 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: February 6, 2009

Respectfully submitted,

By 
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Attachments:

Jensen Declaration
Exhibit 1: Notebook, 3177 page 83
Exhibit 2: Notebook, 3177 pages 14-15, and 43-44
Exhibit 3: Diagram Vector E47
Exhibit 4: Christensen et al., Transgenic Res. 5, 213-218 (1996).
Exhibit 5: Diagram, pCAMBIA3300
Exhibit 6: Diagram, nomenclature for pCAMBIA Vectors
Exhibit 7: Notebook, 3177 C, page 9
Exhibit 8: Notebook, 3177 C, page 16
Exhibit 9: Notebook, 3177 C, page 69
Exhibit 10: Notebook, 3177 C, page 1
Exhibit 11: Excel Spreadsheet with Properties Data and Graphs of Phenotypes
Exhibit 12: Letter from Klaus Salchert re. Manuscript of Jensen Article and manuscript (33 pages)